

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JOSHUA JAMES EDEN,

Plaintiff,

v.

Civil Action No. 16-3703

NANCY A. BERRYHILL,
Acting Commissioner of the Social
Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Cheryl A. Eifert, entered on March 28, 2017; and the magistrate judge having recommended that the court reverse the final decision of the Commissioner,¹ grant plaintiff's motion in Support of Judgment on the Pleadings to the extent it requests remand, deny the Commissioner's motion in Support of the Defendant's Decision, reverse the final decision of the Commissioner, remand this case for further proceedings, and dismiss this matter from the court's docket; and no objection having been filed to the Proposed Findings and Recommendation, it is ORDERED that:

¹ While Carolyn W. Colvin was the Acting Commissioner of Social Security when plaintiff commenced this action, Nancy Berryhill became the Acting Commissioner on January 23, 2017.

1. The findings made in the Proposed Findings and Recommendation of the magistrate judge be, and they hereby are, adopted by the court and incorporated herein;

2. Plaintiff's request for a remand be, and it hereby is, granted;

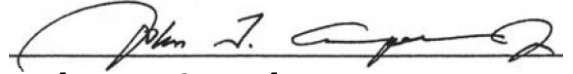
3. Defendant's request to affirm the decision of the Commissioner be, and it hereby is, denied;

4. The decision of the Commissioner be, and it hereby is, reversed;

5. This action be, and it hereby is, remanded pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings which shall include consideration of whether the medical findings and symptoms associated with plaintiff's migraine headaches equal the severity criteria of Listing 11.03; and reconsideration of plaintiff's credibility, taking into account all of the evidence, and provide an explanation of the analysis that addresses the specific characteristics of migraine headaches; and as more fully set forth in the magistrate judge's Proposed Findings and Recommendation.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and the United States Magistrate Judge.

DATED: April 18, 2017

A handwritten signature in dark ink, appearing to read "John T. Copenhaver, Jr.", written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge